

801 Mahler Road, Suite
Burlingame, CA 94010



7002 0510 0002 7886 3603

Reason checked
Returned to sender
No such office in state
No such street
No such number
Do not re-mail in this envelope

Ms. Joan Todd or Legae Rep.
205 West End Avenue, Apt. 22E
New York, NY 10023

REQUESTED



0000

U.S. POSTAGE
PAID
BURLINGAME, CA
94010
NOV 05 '02
AMOUNT
\$454
00052854-02

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Joan Todd or Legae Rep.
205 WEST END AVE. Apt. 22E
New York, NY 10023

2. Article Number

(Transfer from service label)

PS Form 3811, Au

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7002 0510 0002 7886 3603

7002 0510 0002 7886 3603

102595-01-M-2509

FLAT RATE



EXPRESS MAIL

UNITED STATES POSTAL SERVICE[®]

www.usps.com



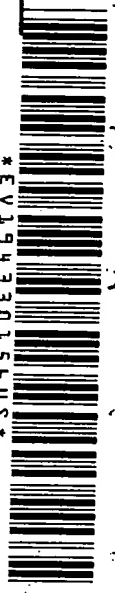
EXPRESS MAIL

UNITED STATES POSTAL SERVICE[®]

CORPORATE ACCOUNT
POSTAGE AND FEES PAID

Label 100 May 2002

HOW TO USE



EVL9433015BUS

Addressee Copy
Label T-F June 2002



EXPRESS MAIL

UNITED STATES POSTAL SERVICE[®] Post Office To Addressee

ORIGIN (POSTAL USE ONLY)

| | | |
|--------------------------------|---|--|
| PO ZIP Code 94303 | Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second | Flat Rate Envelope <input type="checkbox"/> |
| Date of Delivery Nov 7 2002 | Postage \$ | Return Receipt Fee \$ |
| Time of Delivery 12 Noon | Weight 1 lb 7 oz | COD Fee \$ |
| Initials [Signature] | Insurance Fee \$ | Total Postage & Fees \$ |

DELIVERY (POSTAL USE ONLY)

| | |
|--|-----------------------------------|
| Delivery Attempt Mo. Day Time Nov 7 2002 12 Noon | Employee Signature [Signature] |
| Delivery Attempt Mo. Day Time Nov 7 2002 12 Noon | Employee Signature [Signature] |
| Delivery Date Mo. Day Time Nov 7 2002 12 Noon | Employee Signature [Signature] |

CUSTOMER USE ONLY

Customer Signature
[Signature]

Federal Agency/Dept. No. or Postal Service Act. No.

FROM: (PLEASE PRINT) PHONE 650 612 3400

TO: (PLEASE PRINT) PHONE

CARR & FERRILL
2225 E BAYVIEW RD # 200
PALO ALTO CA 94303-3220
CBS:dm
PA167505

Assistant Commissioner for Patents
Attn: PCT Legal Office
Box PCT
Washington, DC 20231

The efficient way to use Express Mail

PRESS HARD. You are making 3 copies. FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



EV194330156US

Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | | |
|---|----------------------|------------------------|----------|
| <h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p> | Application Number | 09/701,797 | |
| | Filing Date | December 1, 2000 | |
| | First Named Inventor | Clifford L. Hersh | |
| | Group Art Unit | Unknown | |
| | Examiner Name | Unknown | |
| Total Number of Pages in This Submission | 11 | Attorney Docket Number | PA1675US |

| ENCLOSURES (check all that apply) | | |
|--|--|--|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Renewed Petition 37 CFR 1.137(b) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): (1) Declaration for Utility or Design Patent Application; (2) Declaration of Facts Pertinent to Petition Under 37 CFR 1.47(a); (3) November 4, 2002 Correspondence from Kenneth Ruotolo to Joan Todd; (4) Copy of Certified Mail Envelope to Ms. Todd and Returned as Unclaimed (5) Confirmation Postcard |
| Remarks Total page number does not include postcard. | | |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | |
|--|---|
| Firm or Individual name | Carr & Ferrell, LLP Cust. No. 22830 |
| Signature | <i>Stefanie M. Howell</i> - Reg. No. 45,929 |
| Date | November 27, 2002 |

| CERTIFICATE OF EXPRESS MAILING | |
|--|---|
| I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Assistant Commissioner for Patents, Box PCT, Washington, DC 20231 on this date: <u>Nov. 27, 2002</u> | |
| Typed or printed name | Stefanie M. Howell |
| Signature | <i>Stefanie M. Howell</i> - Date <u>November 27, 2002</u> |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

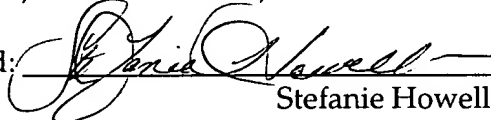
APPLICANTS: HERSH, CLIFFORD L.
SERIAL NO.: 09/701,797
FILING DATE: December 1, 2000
TITLE: Method for Increased Concurrency In a Computer System
EXAMINER: Unknown
ART UNIT: Unknown
ATTY. DKT. NO.: PA1675US

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Attention: Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, Attention: PCT Legal Office, on November 27, 2002.

Date: 11/27/02
November 27, 2002

Signed: _____


Stefanie Howell

Assistant Commissioner for Patents
Box PCT
Washington, DC 20231
Attention: PCT Legal Office

Renewed Petitions Under 37 CFR 1.47(a) and 37 CFR 1.137(b)

SIR:

In response to the Decision on Petition under 37 CFR 1.137(b), mailed October 3, 2002, please consider the following request for reconsideration of the Petition for Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) and the petition under 37 CFR 1.47(a).

PETITION INCLUDING PROOF OF PERTINENT FACTS

The previous Petition under 37 CFR 1.47(a) and Renewed Petition under 37 CFR 1.137(b) was denied because "the petition [provided] no evidence that the current legal representative of the deceased inventor could not be found or reached after diligent effort or has refused to join in the present application." The decision on the Petition under 37 CFR 1.47(a) and Renewed Petition under 37 CFR 1.137(b) also states that "a proper reply in the present case would have been an executed declaration compliant under 37 CFR 1.497(a)-(b) and, if the legal representative refused to sign or could not be reached after diligent effort, a grantable petition under 37 CFR 1.47(a)." Since receipt of the decision on the Petition under 37 CFR 1.47(a) and Renewed Petition under 37 CFR 1.137(b), the assignee has made various diligent attempts to reach the legal representative of deceased inventor Herb Sullivan. The details of these attempts are set forth in the attached "Declaration of Facts Pertinent to Petition Under 37 CFR 1.47(a)."

As set forth in the declaration, the assignee has made diligent efforts to locate a legal representative for Herb Sullivan, including sending a certified letter to the last known address of Herb Sullivan. As stated in the attached Declaration of Facts Pertinent to Petition Under 37 CFR 1.47(a), the certified letter to Herb Sullivan's last known address was returned unopened and unclaimed and a copy of the envelope is attached hereto for reference. The Decision on Petition Under 37 CFR 1.47(a) and Renewed Petition Under 37 CFR 1.137(b) states that a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. As to item (1), it is noted in the Decision on Petition Under 37 CFR 1.47(a) and Renewed Petition Under 37 CFR 1.137(b) that the required petition fee will be charged and that Applicant has previously authorized the charging of additional fees required under 37 CFR 1.16 and 1.17.

With respect to item (2), the attached declaration from assignee sets forth factual proof that Herb Sullivan's legal representative cannot be reached after diligent effort. With respect to item (3), the last known address for Herb Sullivan is stated on the declaration signed by Clifford Hersh, co-inventor with the deceased. With respect to item (4), a declaration on behalf of Clifford Hersh and on behalf of Herb Sullivan, the non-signing joint inventor is attached hereto and Applicant believes this declaration to be properly executed and compliant under 37 CFR 1.497 (a) - (b). Accordingly, Applicant submits that a grantable petition has been submitted pursuant to 37 CFR 1.47(a).

Applicant believes that no fees are associated with the aforementioned submissions. However, the PCT Legal Office is hereby authorized to charge deposit account 06-0600 should any fees be incurred in association with the present Renewed Petition under 37 CFR 1.47(a) and Renewed Petition under 37 CFR 1.137(b).


CONCLUSION

In view of the foregoing, a decision in favor of a revival of the present application is respectfully requested.

If the Examiner believes that a conference would facilitate prosecution of this application, the Examiner is invited to telephone Applicant's representative, undersigned, at the number set out below.

Respectfully submitted,
Clifford L. Hersh

Date: 11/27/02

By: 
Stefanie Howell, Registration No. 45,929
Carr & Ferrell LLP
2225 East Bayshore Road, Suite 200
Palo Alto, California 94303
Phone (650) 812-3442

| | | |
|---|-------------------------------|-------------------|
| DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) <input type="checkbox"/> Declaration Submitted with Initial Filing <input checked="" type="checkbox"/> Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required) | Attorney Docket Number | PA1675 |
| | First Named Inventor | Clifford L. Hersh |
| | COMPLETE IF KNOWN | |
| | Application Number | 09 / 701,797 |
| | Filing Date | December 1, 2000 |
| | Group Art Unit | unknown |
| | Examiner Name | unknown |

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Method For Increased Concurrency In A Computer System

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) 12/01/2000 as United States Application Number or PCT International

Application Number 09/701,797 and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.


| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? | |
|--|---------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| | | | | YES | NO |
| PCT/US99/12433 | PCT | 06/03/1999 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

[Page 1 of 3]

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

DECLARATION — Utility or Design Patent Application

| | | | | | | | |
|--|--|--------------------------------------|---|--|-----------------------------|------------------------------|--|
| Direct all correspondence to: <input checked="" type="checkbox"/> | | Customer Number or Bar Code Label |  | | OR <input type="checkbox"/> | Correspondence address below | |
| 22830 PATENT TRADEMARK OFFICE | | | | | | | |
| Name | | | | | | | |
| Address | | | | | | | |
| City | | | | State | | ZIP | |
| Country | | | Telephone | | | Fax | |
| <small>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</small> | | | | | | | |
| NAME OF SOLE OR FIRST INVENTOR : | | | | <input type="checkbox"/> A petition has been filed for this unsigned inventor | | | |
| Given Name Clifford L. (first and middle [if any]) | | | | Family Name Hersh or Surname | | | |
| Inventor's Signature <i>Clifford Hersh</i> | | | | Date 11/22/02 | | | |
| Residence: City Berkeley | | State CA | | Country USA | | Citizenship USA | |
| Mailing Address 2631 Piedmont Avenue | | | | | | | |
| City Berkeley | | State CA | | ZIP 94704 | | Country USA | |
| NAME OF SECOND INVENTOR: | | | | <input checked="" type="checkbox"/> A petition has been filed for this unsigned inventor | | | |
| Given Name Herbert W. (first and middle [if any]) | | | | Family Name Sullivan or Surname | | | |
| Inventor's Signature | | | | Date | | | |
| Residence: City (Last known address) New York | | State NY | | Country USA | | Citizenship USA | |
| Mailing Address 205 West End Avenue, Apt. 22E | | | | | | | |
| City New York | | State New York | | ZIP 10023 | | Country USA | |
| <input type="checkbox"/> Additional inventors are being named on the ____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto. | | | | | | | |

37 CFR §1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability. A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

APPLICANTS: HERSH, CLIFFORD L.
SERIAL NO.: 09/701,797
FILING DATE: December 1, 2000
TITLE: Method for Increased Concurrency In a Computer System
EXAMINER: Unknown
ART UNIT: Unknown
ATTY. DKT. NO.: PA1675US

**DECLARATION OF FACTS PERTINENT TO PETITION UNDER 37 CFR
1.47(a)**

I, Ken Ruotolo, Vice President of Finance and Operations and Chief Financial Officer for ANTs Software, Inc., the assignee of the above-referenced application, I hereby declare that the facts set forth herein are within my personal knowledge, or appear from documents and information received by me in the course of this matter. If called upon to do so, I could and would testify to the truth thereof.

I spoke with Herb Sullivan's widow's (Joan Todd) attorney, David Perlmutter, on November 4, 2002 to determine if he knew who was Herb Sullivan's current legal representative. He did not know of a current legal representative for Herb Sullivan. Since Joan Todd likewise became deceased, he did not have her files immediately available, but offered to pull them from storage in order to look for the name of a current legal representative for Herb Sullivan that may have come up in conversations between Mr. Perlmutter and Joan Todd. Mr. Perlmutter called me back on the 5th of November to say that he was unable to find a reference to Herb Sullivan's legal representative in his files.

Around the same time (Nov. 4th or 5th), I contacted Don Hutton. I believed that, as co-founder of Chopp/ANTs along with Herb Sullivan, Mr. Hutton may have had personal knowledge of a legal representative for Herb Sullivan. According to Mr. Hutton, since the time Herb Sullivan passed away, the only people Mr. Hutton has dealt with regarding ANTs patent matters were Joan Todd and her attorney, Mr. Perlmutter. Further, Mr. Hutton stated that he knew of no heirs to either Herb Sullivan's estate or Joan Todd's estate.

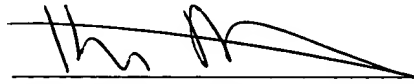
Around the same time (Nov. 4th or 5th), I spoke to Clifford Hersh, ANTs' current Chief Scientist. In addition to being co-inventor with Herb Sullivan of the above-referenced application, Clifford Hersh was also co-inventor with Herb Sullivan concerning a number of other Chopp/ANTs technologies. Accordingly, it was my belief that Clifford Hersh may have known personal details related to Herb Sullivan's life and estate. Thus, I asked Mr. Hersh if he knew who may be Herb Sullivan's legal representative. Mr. Hersh stated that he had no knowledge of such a person and knew of no heirs to either Herb Sullivan's estate or Joan Todd's estate.

Having been unable to locate a current legal representative for Herb Sullivan by communicating with his known close contacts, I sent a registered letter to Herb Sullivan's last known address. This letter was returned unopened and unclaimed. A photocopy of the front of the envelope showing the post office markings and the letter that was inside are enclosed for reference.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

11/22/02

Date



Ken Ruotolo, Executive Vice President
Finance and Operations and
Chief Financial Officer
ANTs Software, Inc.



801 Mahler Rd., Suite G, Burlingame, CA 94010 (650) 692-0219 www.antssoftware.com

ANTs
software inc.

November 4, 2002

Ms. Joan Todd
205 West End Avenue, Apt. 22E
New York, NY 10023

To Whom It May Concern:

I am trying to make contact with the current legal representative of Ms. Joan Todd's late husband, Mr. Herbert Sullivan. This concerns a legal matter related to patents.

Please contact me at your earliest convenience if you represent Mr. Sullivan's estate or know of someone who does. My contact information is:

Ken Ruotolo
Ph: 650-692-0219 x24
Fax: 650-692-0253

Email: ken.ruotolo@antssoftware.com

Thank you for your time.

Sincerely,

Kenneth Ruotolo
Vice President Finance and Operations